



Legislative Bulletin.....November 5, 2003

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Summary of the Bills Under Consideration Today

Total Number of New Government Programs: At least 9

Total Cost of Discretionary Authorizations: Approximately \$7.987 billion over 5 years

Total Amount of Revenue Reductions: \$6 million over five years plus other reductions in the Senate amendment to H.R. 3365

Total Increase in Mandatory Spending: \$80 million over five years

Total New State & Local Government Mandates: At least 1

H.R. 3349—To authorize salary adjustments for Justices and judges of the United States for fiscal year 2004 (Sensenbrenner)

Order of Business: The bill is scheduled to be considered on Wednesday, November 5th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3349 would permit justices and judges of the United States to receive a salary increase of 2.2%. Section 140 of Public Law 97-92 provides that the obligation or expenditure of funds to increase the salary of federal judges is prohibited without a specific

authorization from Congress. This bill would provide such authorization but would not provide the increase *per se*. Salaries are appropriated in the Commerce-Justice-State Appropriations bill (H.R. 2799, in the case of FY2004).

Additional background: Members of Congress will also receive a 2.2% pay increase this year.

Committee Action: On October 22, 2003, the bill was referred to the Judiciary Committee's Subcommittee on Courts, the Internet, and Intellectual Property, but was never considered.

Cost to Taxpayers: CBO estimates that H.R. 3349 would authorize appropriations of \$4 million in FY2004 and \$24 million over the FY2004-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: Although a committee report citing constitutional authority is unavailable, Article III, Section 1 states that federal judges "shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office."

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H.R. 3214— Advancing Justice Through DNA Technology Act of 2003 (Sensenbrenner)

Order of Business: The bill is scheduled for consideration on Wednesday, November 5th, under a motion to suspend the rules and pass the bill. Because H.R. 3214 authorizes more than \$100 million in spending, it is required under Rule 28 of the Rules of the Republican Conference to receive a waiver in order to be scheduled for consideration under suspension of the rules. Under Rule 28, a waiver may be granted by a majority of the Elected Leadership (Speaker, Leader, Whip, Conference Chair, Policy Chair, Conference Vice-Chair, Conference Secretary, and the Chairman NRCC).

Summary:

New Programs:

DNA Training Grants:

- Authorizes \$12.5 million per year for five years to provide grants for training and education related to DNA evidence

Sexual Assault Forensic Exam Grants:

- Authorizes \$30 million per year for five years to create a grant program to provide training, technical assistance, education, equipment, and information to medical

personnel and professionals relating to the identification, collection, preservation, analysis, and use of DNA samples and evidence

DNA R&D Grants:

- Authorizes \$15 million per year for five years for grants for research and development to improve forensic DNA technology

DNA Identification of Missing Persons Grants:

- Authorizes \$2 million per year for five years for grants to state and local governments for DNA identification of missing persons and unidentified human remains

Forensic Science Commission:

- Authorizes the Attorney General to establish a new Forensic Science Commission

Kirk Bloodsworth Post-Conviction DNA Testing Grants:

- Authorizes \$5 million per year for five years to provide grants to states for post-conviction DNA testing.

DNA Testing for Federal Convicts:

- Establishes new procedures for applications for DNA testing by inmates in the Federal system for any offense committed, or judgment entered, before, on, or after the date of enactment
- Requires a court to order DNA testing if an applicant for testing asserts that he or she is actually innocent of a qualifying offense, that the proposed DNA testing would produce new material evidence that would support such an assertion and create a reasonable probability that the applicant did not commit the offense, and meets various other requirements
- Criminal penalties are established in the event that testing proves the applicant was the source of the DNA tested
- If test results indicate that the applicant was not the source of the DNA evidence, the court must grant the applicant's motion for a new trial or resentencing if the evidence establishes by a preponderance of the evidence that a new trial would result in an acquittal of the offense at issue
- Prohibits the destruction of biological evidence in a federal criminal case while a defendant remains incarcerated, without a waiver by the defendant or prior notification to the defendant that the evidence may be destroyed

Requirement that States Have Post-Conviction DNA Testing Program To Receive Federal Funds:

- Provides that states can only receive grant funding for (1) DNA Training, (2) DNA R&D, (3) DNA Identification of Missing Persons, and (4) Post-Conviction DNA Testing if they do the following: (1) Make post-conviction DNA testing available to persons convicted of a state crime (if the state process is enacted after enactment of this bill the state process must conform to the federal process for post-conviction DNA testing) and (2) preserve biological evidence in relation to state criminal cases

Capital Representation Improvement Grants:

- Establishes a grant program to ensure effective representation in state capital cases
- Grants shall be used to establish, implement, or improve an “effective system” for providing competent legal representation in capital cases
- An effective system is defined as one in which a public defender program or a capital representation entity composed of individuals with knowledge of capital cases establishes qualifications for attorneys who may be appointed to represent indigents; establishes and maintains a roster of qualified attorneys and assigns such attorneys in cases (or provides the trial judge with a choice of such attorneys to assign); trains and monitors the performance of such attorneys; and ensures funding for the full cost of competent legal representation by the defense team and any outside experts that may be employed
- In order to receive funds, states must comply with the federal requirements described above
- NOTE: A manager’s Amendment that will be offered on the floor will expand the definition of an “effective system” to include statutory procedure enacted before the date of the enactment of the bill under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity. This change increases the number of states that are already eligible for assistance under the bill
- Grants may not be used to fund representation in specific cases
- Requires evaluations of states receiving funds by the DOJ Inspector General
- Authorizes \$50 million a year for five years

Capital Prosecution Improvement Grants:

- Authorizes grants to improve the representation of the public by prosecutors in state capital cases by establishing training programs for capital prosecutors; developing, implementing, and enforcing appropriate standards and qualifications for such prosecutors and assessing their performance; establishing programs under which prosecutors conduct a systematic review of cases in which a defendant is sentenced to death in order to identify cases in which post-conviction DNA testing is appropriate; and assisting the families of murder victims
- Grants may not be used for individual cases
- In order to receive funds, states must comply with the federal requirements described above
- Requires evaluations of states receiving funds by the DOJ Inspector General
- Authorizes \$50 million a year for five years

Changes to Existing Programs:

DNA Backlog Elimination Act Grant Program:

- Renames the program the “Debbie Smith DNA Backlog Grant Program”
- Expands the program to include providing assistance to local governments
- Converts the program from a discretionary grant program to a formula program.

- Permits state and local governments to use federal funds to contract with private DNA Labs
- Authorizes \$151 million per year for fiscal years 2005 through 2009

Combined DNA Index System:

- Expands the types of DNA samples that can be entered into the system to include: samples from all felons convicted under Federal law, samples from all persons convicted of military crimes with a sentence of more than 1 year, and all samples collected under state law.
- Requires State and local government crime labs to undergo accreditation by a non-profit professional association and every two years to undergo an external audit to ensure compliance with federal standards

Violence Against Women Act:

- Expands existing programs to provide that funds may be used to provide legal assistance for victims of dating violence
- Authorizes grants to nonprofit, nongovernmental tribal domestic violence and sexual assault coalitions in Indian country

Paul Coverdell Forensic Science Improvement Grants:

- Authorizes \$20 million per year for fiscal years 2007-09
- Funds will be used for grants to states, units of local governments, and tribal governments to eliminate forensic science backlogs including backlogs in the analysis of firearms examinations, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence
- Requires that the laboratories have a process for investigating serious negligence or misconduct affecting the integrity of forensic results.

FBI DNA Programs:

- Authorizes \$42.1 million per year for five years in additional funds for the FBI to carry out its DNA programs

Unauthorized Disclosure of DNA Information:

- Expands the criminal code provisions which criminalize unauthorized disclosure of DNA information to criminalize the unauthorized use of such information and increases the potential fine to \$100,000 for each criminal offense

Compensation in Federal Cases for the Wrongfully Convicted:

- Increases the maximum amount of damages an individual may be awarded for being wrongfully imprisoned by the Federal Government from \$5,000 to \$50,000 per year in non-capital cases and \$100,000 per year in capital cases

Other Provisions:

- Provides, with certain exceptions, that the time period for the statute of limitations for any crime where DNA testing implicates an identified person shall begin from the time of the identification

- Requires the Attorney General to issue certain reports to Congress

Potential Concerns:

The National District Attorneys Association has requested that the provisions regarding Capital Representation Improvement Grants (which set standards for state capital defense systems) be deleted and has stated that “the standard set by this Act to determine when a convicted felon is entitled to a new trial based on DNA evidence is set dangerously low.”

Rep. Flake and Rep. Shadegg have circulated information raising similar concerns about the bill.

Ramesh Ponnuru with *National Review* has also editorialized against the bill:
<http://www.nationalreview.com/ponnuru/ponnuru200310290831.asp>

Committee Action: The bill was referred to the House Judiciary Committee and was reported by a vote of 28-1 on October 8, 2003.

Cost to Taxpayers: H.R. 3214 would authorize the appropriation of \$1.85 billion over the 2005-2009 period to expand the use of DNA analysis in the criminal justice system. The bill would establish six new grant programs and extend two current grant programs that provide funding for states to improve forensic analysis of crime scene evidence, collect DNA samples from offenders, and train law enforcement personnel. The bill also would authorize appropriations for the Federal Bureau of Investigation to carry out its DNA programs, including the Combined DNA Index System (CODIS), and would require the collection of DNA samples from persons convicted of felonies. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3214 would cost about \$1.1 billion over the 2005-2008 period (with additional amounts spent after 2008). This legislation could affect direct spending, but CBO estimates that any such effects would not be significant.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates 7 new programs, new rules for federal post-conviction DNA analysis, and requires states to conform their laws to federal requirements to receive funding from federal grant programs.

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**H.R. 3348—To reauthorize the ban on undetectable firearms
(Sensenbrenner)**

Order of Business: The bill is scheduled to be considered on Wednesday, November 5th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3348 would reauthorize for ten more years the Undetectable Firearms Act of 1988, which made it a federal crime to manufacture, import, sell, ship, deliver, possess,

transfer, or receive firearms that are not detectable by a metal detector or x-ray machine (after removal of grips, stocks, and magazines). The current authorization (which itself was a five-year extension in 1998) is about to expire in December 2003.

Committee Action: On October 22, 2003, the bill was referred to the Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security, but was not considered.

Cost to Taxpayers: There is no indication that this reauthorization would have any cost.

Does the Bill Create New Federal Programs or Rules?: No, it reauthorizes current criminal law.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

Outside Organizations: The National Rifle Association supports H.R. 3348, yet points out the following in its statement of support: "When originally passed in 1988, the 'Undetectable Firearms Act' did not ban any existing firearm. The extension of this ban also would not prohibit any firearm in production today. This legislation was, and still is, purely preventive."

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H.R. 3365 — Fallen Patriots Tax Relief Act as Amended (Renzi)

Order of Business: The bill is scheduled for consideration on Wednesday, November 05, 2003, under a motion to suspend the rules and pass the bill.

On October 29, 2003, the House passed H.R. 3365 413 - 0 (<http://clerk.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=578>) On November 3, 2003, the bill was agreed to in the Senate with an amendment title by unanimous consent.

Summary: H.R. 3365 increases the death gratuity to the survivors of deceased members of the armed forces from the current \$6,000 per year to \$12,000. The increase is retroactive to September 11, 2001. The bill also excludes this payment from gross income for IRS tax purposes (26 U.S.C. 134), retroactive to deaths after September 10, 2001.

The Senate amendment modifies the House-passed bill in the following ways:

- **Extends customs user fees (19 U.S.C. 58c(j)(3)) until March 1, 2005.**
- **Adds a provision suspending the 5-year time period for capital gains taxes on property, for the time when an individual or his spouse is serving on qualified official extended duty as a member of the uniformed services or Foreign Service. This provision is retroactive, and is to be considered enacted with the 1997 tax cut package.**

- Adds a new provision allowing amounts received under Department of Defense homeowners assistance program (to compensate them for a drop in home values resulting from military base closures or realignments) to be excluded from gross income. In addition combat zone provisions are expanded to contingency operations defined by the Secretary of Defense.
- Clarifies that dependent care assistance provided under a military dependent care assistance program is tax-free.
- Clarifies that appointments to a military academy are treated like scholarships for the purpose of a qualified tuition program or a Coverdell Education Savings Account, so that there is not a 10-percent penalty.
- Under current law, reservists who itemize their expenses may deduct unreimbursed travel expenses to the extent these expenses exceed 2% of adjusted gross income. The bill provides an above-the-line deduction for overnight travel expenses incurred more than 100 miles away from home (including meals, transportation and lodging).
- The bill modifies the definition of a tax-exempt veterans' organization by allowing ancestors or lineal descendants to be treated as members for purposes of one of the membership requirements.
- The bill provides that the tax-exempt status of an organization is automatically suspended during any period in which the organization is designated as a terrorist organization or is listed in or designated by an Executive Order as supporting terrorism.
- The bill extends the income and estate tax relief provisions of the Victims of Terrorism Tax Relief Act of 2002 to astronauts who lose their lives in the line of duty.

Additional Information: Under current law (26 U.S.C. 134), a death gratuity shall be paid to or for the living survivor highest on the following list:

- His surviving spouse
- His children in equal shares;
- If designated by him, any one or more of the following persons: His parents or persons in loco parentis, His brothers, His sisters;
- His parents or persons in loco parentis, in equal shares; and
- His brothers and sisters in equal shares.

Committee Action: H.R. 3365 was introduced on October 21, 2003 and referred to the House Committees on Ways and Means and Armed Services. Neither committee considered the resolution.

Cost to Taxpayers: A CBO cost estimate is unavailable. The Joint Committee on Taxation estimates a \$112 increase in mandatory spending over 10 years and a \$10 million loss in federal revenue due to the IRS tax exclusion. **The bill, as amended by the Senate, extends**

customs user fees (19 U.S.C. 58c(j)(3)) until March 1, 2005, which would increase federal revenues.

Does the Bill Create New Federal Programs or Rules?: The bill increases the current death gratuity and ensures that the full amount is not taxable. The bill as amended also includes a number of new tax provisions related to military service and benefits.

Constitutional Authority: A committee report citing constitutional authority is unavailable

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H.Res. 425—Recognizing and honoring the firefighters and other public servants who responded to the October, 2003, historically devastating, outbreak of wildfires in Southern California (*Davis of California*)

Order of Business: The resolution is scheduled to be considered on Wednesday, November 5th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 425 would resolve that the House “recognizes and honors those firefighters and every public servant who participated in responding to the October 2003, historically devastating, outbreak of wildfires in Southern California and commends them for their dedicated service to the people of California.”

Additional Background: To see a NASA image of the fires from last week, visit this webpage: http://www.directionsmag.com/article.php?article_id=447

For the latest updates on the ongoing California wildfires, visit this website: <http://jicfire.calmast.org/>

Committee Action: The resolution was referred to the Government Reform Committee on October 30, 2003, but was not considered.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 3379 -- To designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the "Francis X. McCloskey Post Office Building" (*Hill*)

Order of Business: The bill is scheduled for consideration on Wednesday, November 5, 2003, under a motion to suspend the rules and pass the bill.

Summary: H.R. 33379 designates the U.S. Post Office located at 3210 East 10th Street in Bloomington, Indiana, as the "Francis X. McCloskey Post Office Building"

Additional Background: Francis X. McCloskey was a former Democratic Congressman from Indiana. He was first elected to the 98th Congress (1983) and served through the 103rd Congress (1994). Rep. McCloskey was seated (pursuant to House Resolution 146) in the House for his second term after a disputed election contest that John Fund of the *Wall Street Journal* has described this way: "After a recount, Republican Richard McIntyre was declared the winner by 34 votes over Democratic incumbent Frank McCloskey. The Indiana secretary of state, a Republican, duly certified the McIntyre victory, but the Democratic House refused to seat him and left the seat vacant for four months while a special task force recounted the ballots. The task force decided--and the full House agreed along party lines--that the Democrat had won by four votes. Republicans charged that the Democrats had recounted the ballots till Mr. McCloskey was ahead and then promptly shut down the count. Newt Gingrich, the future House speaker, labeled the refusal to seat the certified winner "the Watergate of the House," and his hard-line rhetoric helped him begin his climb up the leadership ladder in the House when he won election as GOP whip four years later."

Committee Action: H.R. 3379 was introduced on October 28, 2003, and referred to the House Committee on Government Reform.

Cost to Taxpayers: The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to "establish Post Offices and post Roads."

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H.J.Res. 76—Making further continuing appropriations for the fiscal year 2004 (Young of Florida)

Order of Business: The joint resolution is scheduled to be considered on Wednesday, November 5th, pursuant to a closed rule (H.Res. 430).

Summary: Extends the existing Continuing Resolution through November 21, 2003.

RSC Staff Contact: Neil Bradley; x6-9717

H.R. 2443—Coast Guard and Maritime Transportation Act of 2003 (Young of Alaska)

Order of Business: The bill is scheduled to be considered on Wednesday, November 5th, pursuant to the open rule (H.Res. 416) that the House passed on October 29th. Amendments that have been pre-printed in the *Congressional Record* are summarized below. Note: under an open rule, amendments do not need to be pre-printed in order to be made on the House floor.

Summary: H.R. 2443 would authorize appropriations, provide for marine safety, and make other adjustments to Coast Guard policy and management.

Authorization of Appropriations

H.R. 2443 would authorize \$7.113 billion for Coast Guard programs (including retired pay) in FY2004—**\$1.12 billion (or 18.7%) more than the appropriation for FY2003 and \$458.0 million (or 6.9%) more than President Bush’s request for FY2004.** Below are the authorization levels for each of the six accounts in which programs have traditionally been authorized (though H.R. 2443 combines a few such accounts).

Coast Guard Authorizations

(Millions of Dollars)

Account	FY 2003 Approps	FY 2004 Request (Bush)	FY 2004 Authorization H.R. 2443	H.R. 2443 vs. FY 03	H.R. 2443 vs. Bush
Operations & Maintenance	4,322.1	4,821.0	4,979.0	15.2%	3.3%
Acquisition & Construction	725.1	775.0	1,057.0	45.8%	36.4%
Research & Development	22.0	22.0	22.0	0.0%	0.0%
Retired Pay	889.0	1,020.0	1,020.0	14.7%	0.0%
Bridge Alteration	17.2	0.0	18.0	4.7%	
Environmental Compliance	17.0	17.0	17.0	0.0%	0.0%
TOTAL	5,992.4	6,655.0	7,113.0	18.7%	6.9%

H.R. 2443 would also authorize the hiring of 45,500 active-duty Coast Guard personnel. At the end of FY2003, approximately 37,000 active-duty personnel were serving in the Coast Guard.

Coast Guard Management

- Allows the Coast Guard to enter into certain property leases for twenty years (rather than the current-law five years).
- Allows incentive bonuses of up to \$20,000 each to enlisted members who completes training in a skill designated as critical, subject to certain requirements and restrictions.
- Eliminates the requirement that a warning shot be fired before taking a disabling shot at a vessel that refuses to comply with a lawful order to stop for a lawful search.
- Clarifies what constitutes a Coast Guard user fee (does *not* establish any new user fee).
- Expands the authority of the Coast Guard to take out direct loans for housing acquisition or construction.
- Reduces the mandatory retirement age from 62 to 60.
- Permits travel allowances or pay to be deducted or withheld from a Coast Guard employee who is delinquent under a federal contractor-issued credit card.
- Provides statutory authority for a Coast Guard Congressional Fellowship Program, under which four mid-grade officers could be assigned for educational purposes to one-year assignments on Capitol Hill. (The current fellowship program is administered by the Department of Defense.)
- Establishes a new Coast Guard Museum at or near the Coast Guard Academy in New London, Connecticut. The Secretary of the Department in which the Coast Guard is operating could not expend any federal funds for the planning, engineering, design, construction, operation, or maintenance of the museum.
- Increases the limit on commissioned officers from 6,200 to 6,700.

Navigation

- Allows the Coast Guard to mark underwater wrecks with non-lighted buoys.
- Authorizes the prohibition of the use (on the bridge of vessels) of certain electric and electronic devices that interfere with communications or navigation equipment.
- Authorizes the Commandant to enter into cooperative agreements with non-federal entities to carry out vessel operating requirements and traffic services. Cooperative agreements could not be made for the provision of “inherently governmental functions,” defined as “activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.”
- Provides for the establishment of new inland navigation regulations and the repeal of the current ones.

Shipping

- Provides for an optional *suspending* of a merchant mariner’s credentials upon conviction of drug use or addiction if such drug use can be proven cured. Current law mandates *revocation* of credentials upon such conviction.

- Makes merchant mariner's credentials subject to public scrutiny under the Freedom of Information Act and the Privacy Act. Currently, such credentials are not open to public inspection.
- Exempts unmanned barges from having to be commanded by U.S. citizens (subject to certain restrictions).
- Increases the civil penalties for failure to comply with recreational vessel construction standards from \$2,000 per offense/maximum of \$100,000 for a related series of violations to \$5,000 per offense/maximum of \$250,000 for a related series of violations.
- Allows the Coast Guard to suspend or revoke a merchant mariner's credentials if the mariner commits an act of incompetence, regardless of whether the mariner was acting under the authority of the credentials at the time the incompetence occurs.
- Allows the Coast Guard to prevent (for safety reasons) the departure of a foreign vessel carrying a U.S. citizen from a U.S. port, regardless of where the vessel picked up the U.S. citizen.

Federal Maritime Commission

- Authorizes appropriations of \$18.5 million for the Federal Maritime Commission for FY2004.

Miscellaneous

- Increases civil penalties for violations of certain bridge statutes (such as those requiring certain lighting on bridges, etc.). Such penalties are \$1,000 in current law but would increase under the bill to \$25,000 by 2008.
- Authorizes \$5 million for each of fiscal years 2004-2008 for the establishment of a National Maritime Enhancement Institute for the Great Lakes Region to study cargo transportation on the Lakes.
- Authorizes \$5 million for FY2004 for the Agile Port and Intelligent Border Security National Demonstration Project to develop and deploy dual-use transportation technologies for commercial applications.
- Directs the Congressional Budget Office to study the impact of chartering dredges by foreign citizens on the U.S. dredging industry.
- Requires the Coast Guard to report on the security inspections of vessels and cargo on vessels that enter the United States each year.
- Authorizes several conveyances and miscellaneous provisions regarding specific vessels.

Amendments to the Oil Pollution Act of 1990

- Allows the President to issue regulations requiring **non-tank** vessels of 400 gross tons and greater that carry oil as fuel for main propulsion to prepare vessel response plans in the event of spillages.
- Clarifies several current-law liability provisions for oil spillages.

- Allows the Secretary of Transportation to issue regulations regarding minimum standards for, and carriage of, devices warning of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

Amendments Pre-Printed in the Congressional Record:

Manzullo (#1). Prohibits any aircraft, including helicopters, from being acquired (directly or indirectly) by the Coast Guard unless the aircraft are manufactured in the United States using components at least 65% of which are manufactured in the United States.

Manzullo (#2). Allows the Coast Guard to conduct bridge alteration projects only if the steel, iron, and manufactured products used in such projects are produced in the United States (unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable).

Manzullo (#3). Substitutes “at least 65 percent” for “substantially all” in the Coast Guard acquisitions and construction projects subject to the Buy American Act (41 U.S.C. 10a).

Jones of North Carolina (#4). Allows the Commandant to make direct recommendations to Congress regarding Coast Guard policy.

Engel (#5). Directs the Coast Guard to patrol all navigable waters that are adjacent to a nuclear production or utilization facility.

Engel (#6). Mandates a security assessment of (and a report to Congress on) Indian Point Energy Center, Westchester County, New York, within one year of this bill’s enactment.

Engel (#7). Mandates a security assessment of (and a report to Congress on) the navigable waters adjacent to Indian Point Energy Center, Westchester County, New York, within one year of this bill’s enactment.

Oberstar (#8). Authorizes the Coast Guard to suspend or revoke a mariner’s license if a mariner: 1) operates a vessel in a negligent manner or interferes with the safe operation of a vessel, so as to endanger the life, limb, or property of a person; or 2) poses a terrorism security risk. According to the amendment sponsor’s office, this amendment would allow the relevant persons responsible for the recent Staten Island Ferry accident to have their licenses revoked. A current-law technicality prevents such revocation.

Millender-McDonald (#9). Authorizes the Department of Homeland Security to issue port security grants, by replacing “Secretary of Transportation” with “Secretary of Homeland Security” in the relevant places in the Maritime Transportation Security Act (46 U.S.C. 70107).

Engel (#10). Requires a vulnerability assessment of Indian Point Nuclear Power Plant, Westchester County, New York.

Hostettler (#11). Directs the Commandant to assign an officer in the grade of captain to serve as the Coast Guard's Service Chair at the National War College.

DeFazio (#12). Prohibits the National Coast Guard Museum from being located on any property that has been condemned or taken by eminent domain by the federal government, by a state or local government, or by any other person acting under the authority of a state or local government. *(Note: the notion of eminent domain refers to the federal, state, or local government power to take private property—presumably for public use, like roads, but more and more for transferring to another private party, such as a developer or an electric utility).*

Baldwin (#13). Prohibits the acquisition of any main propulsion diesel engine for the Coast Guard's Integrated Deep Water System unless the engine is manufactured in the United States.

Hostettler (#14). Authorizes the repayment of federal education loans for active duty Coast Guard members, up to 33.3% of the loan or \$1500, whichever is greater, for each year of service. This program would be a new recruitment incentive.

Committee Action: On June 12, 2003, the Subcommittee on Coast Guard and Maritime Transportation marked up and forwarded H.R. 2443 to the full Transportation & Infrastructure Committee by voice vote. On June 25, 2003, the full Committee marked up and favorably reported the bill to the full House by voice vote.

Administration Position: There is no indication that the Administration is opposing the authorizations in H.R. 2443 that are higher than in the President's budget request.

Cost to Taxpayers: CBO reports that H.R. 2443 would authorize \$6.093 billion in FY2004 and \$6.113 billion over the FY2004-FY2008 period. As indicated above, the bill would also authorize the appropriation of about \$1 billion for Coast Guard retirement benefits in 2004. That amount is excluded from the CBO estimate because those benefits are considered an entitlement under current law and are not subject to appropriation.

H.R. 2443 would increase mandatory spending by \$2 million per year over the FY2004-FY2008 period (because of a provision allowing the Coast Guard to spend more of the user fees it currently collects).

Does the Bill Create New Federal Programs or Rules?: Yes—the establishment of the National Maritime Enhancement Institute and the Agile Port and Intelligent Border Security National Demonstration Project, as detailed above (for a total of \$30 million in authorizations over five years).

Constitutional Authority: The Transportation and Infrastructure Committee, in House Report 108-233, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause.

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